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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL L. POTTS, D.D.S., and THE
AMERICAN ACADEMY OF IMPLANT
DENTISTRY,

Plaintiffs,

v.

KATHLEEN HAMILTON, in her Official
Capacity as Director, California Department of
Consumer Affairs; CYNTHIA GATLIN,
Executive Officer, California Dental Board;
and ALAN H. KAYE, D.D.S., President;
MICHAEL PINKERTON, Vice-President,
Public Member; LA DONNA DRURY-
KLEIN, R.D.A., Secretary; DAVID I.
BARON, Public Member; NEWTON
GORDON, D.D.S., Member; LAWRENCE
HYNDLEY, D.D.S., Member; PATRICIA
OSUNA, R.D.H., Member; GEORGE
SOOHOO, D.D.S., Member; ARIANE
TERLET, D.D.S., Member; and CHESTER
YOKOHAMA, D.D.S., Member, in their
Official Capacities with the California Dental
Board,

Defendants.

CIV.S-03-0348 DFL DAD

**STIPULATION TO CORRECT THE
RECORD ON APPEAL; ORDER**

DEFENDANTS present the following stipulation to correct the Record by adding
the following deposition testimony that was erroneously omitted from the Record:

	<u>Omitted page/ Pinpoint cite</u>	<u>Citation in Record</u>	<u>Plaintiff's Response</u>
1			
2	1. Potts Dep., p. 45-46	Defendants' Separate	"Admitted, but irrelevant"
3	(Potts Dep. 45:25-46:2)	Statement of Undisputed	(Pls. Response to Defs.
4		Material Facts ("SSUMF"),	SSUMF)
5		No. 2	
6	2. Potts Dep., p. 97	Defendants' SSUMF No. 7.	"Admitted, but irrelevant.
7	(Potts Dep. 97:4-13)		Potts could not remember. . ."
8			(Pls. Response to Defs.
9			SSUMF)
10	3. Shuck Dep., p. 10	Defendants' SSUMF No. 14.	"Admitted [but wrong cite]"
11	(Shuck Dep. 10:3-19)		(Pls. Response to Defs.
12			SSUMF.)
13	4. Shuck Dep., p. 10-11.	Defendants' SSUMF No. 15.	"Partially Admitted. . ." (Pls.
14	(Shuck Dep. 10:20-		Response to Defs. SSUMF)
15	11:20)		
16	5. Shuck Dep., p. 55	Defendants' SSUMF No. 17;	Partially Denied. Plaintiffs
17	(Shuck Dep. 54:8-55:23)	Defendants' MSJ at 13:10-11	note that AAID's verification
18			process is more then is done
19			by the Dental Board to verify
20			CE. . . (Pls. Response to
21			Def. SSUMF.)
22	6. Shuck Dep., p. 66	Defendants' SSUMF No. 18;	"Admitted." (Pls. Response
23	(Shuck Dep. 66:2-7)	Defendants' MSJ at 4:7	to Defs. SSUMF.)
24			
25	7. Shuck Dep., p. 195	Defendants' SSUMF No. 29	"Partially Denied..."
26	(Shuck Dep. 195:14-19)		(Pls. Response to Defs.
27			SSUMF.)
28			
			<u>Reason</u>
	8. Stokes Dep., p.56 attached	Defendants' Opposition to	Supplemental Declaration of
	as Ex. 1 to Supplemental	Plaintiffs' MSJ at 14:7 and	Fay was filed with the
	Decl. of Fay	Defendants' Reply to	District Court on 2/27/04 but
	(Stokes Dep. 56:5-13, 21-	Plaintiffs' Opposition to	this document does not
	25)	Defendants' Cross-MSJ at	appear in the lower court's
		9:11.	docket.
	9. Cogan Dep., p. 28-29	Defendants' Reply to	Supplemental Declaration of
	attached as Ex. 4 to	Plaintiffs' Opposition to	Fay was filed with the
	Supplemental Decl. of Fay	Defendants' Cross-MSJ at	District Court on 2/27/04 but
	(Cogan dep. at 28:24-29:12)	9:24	this document does not
			appear in the lower court's
			docket.

Defendants request and Plaintiffs do not oppose correction of the record of this action to include the deposition testimony cited in the foregoing references and attached hereto. Specifically, the record should include the Deposition Testimony of Plaintiff, Michael Potts, D.D.S., taken on October 22, 2003, at pages 45-46, 97 (attached as Ex. A), the Deposition Testimony of James Vincent Shuck taken on November 13, 2003, at pages 10-11, 55, 66 and 195 (also attached as Ex. A), the Deposition Testimony of Lynne Stokes, taken on November 24, 2003, at page 56 (attached to Suppl Decl. of Fay as Ex. B), and the Deposition Testimony of Sandra R. Cogan, Ph.D., taken on November 19, 2003, at pages 28-29 (attached to Suppl Decl. of Fay as Ex. B), and that the Record should include the pinpoint citations, referenced above.

Dated: _____

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Attorney General of the State of California
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Lead Supervising Deputy Attorney General

By: _____

JEFFREY M. PHILLIPS
Deputy Attorney General

Attorneys for Defendants

Dated: _____

FRANK R. RECKER
FRANK R. RECKER & ASSOCIATES
CO., L.P.A. and

McDONOUGH, HOLLAND & ALLEN
A Professional Corporation

By: _____

ANN TAYLOR SCHWING
Attorneys for Plaintiffs

IT IS SO ORDERED.

05/09/2006

/s/ David F. Levi
JUDGE OF THE DISTRICT COURT